REMARKS

The specification (abstract) has been amended to correspond more closely to the elected invention. No new matter has been added.

Claims 10-20 and 22-26 are pending. Claims 19-20 are withdrawn. Claims 10 and 22-24 are currently amended. Claim 18 is canceled, and claims 25-28 are new. New claim 26 encompasses the subject matter of canceled claim 18. No new matter has been added.

Claim 10 has been amended to accurately define the presence of a stabilizer in the latex composition, as well as to accurately specify that the latex composition is a polyisoprene latex composition. New claim 26 has been added to encompass the subject matter of cancelled claim 18. Claims 23 and 24 have been amended to provide sufficient antecedent basis in the preamble. The amendments are supported in the specification and thus no new matter has been added.

Objection to the Specification

The Examiner has objected to the abstract of the disclosure as describing a process. Applicants have corrected the abstract to include a description of the claimed article. Thus, applicants respectfully request withdrawal of the objection to the specification.

Objection to the Claims

The Examiner has objected to claim 18 as referring to a ratio of three compounds but allegedly not reciting an actual ratio. Claim 18 has been amended to more clearly point out what applicants believe is the invention.

The Examiner has objected to claim 23 because claim 23 recited a "polyisoprene latex composition" while claim 10 recites a "latex composition". Claim 10 has been amended to recite a "polyisoprene latex composition".

Accordingly, applicants respectfully request that the objections to the claims be withdrawn.

Rejections Under 35 U.S.C. §112

The Examiner has rejected claims 10, 16, 17, 23, and 24 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Claim 10 has been rejected because "and a stabilizer" appears twice in the claim. Applicants have amended claim 10 to recite "and a stabilizer" only once. Additionally, claims 16 and 17 have been rejected because claim 10 was indefinite as to the number of stabilizers. Applicants submit that the amendment to claim 10 (*supra*) renders claims 16 and 17 definite.

Claims 16, 17, and 23 have been rejected because it allegedly cannot be ascertained whether or not the milk protein salt or the sodium caseinate are present in the final product. It is clear within the instant specification that water-soluble additives are removed from the articles by a water-based leaching step (page 14, lines 11-13; page 17, lines 15-16; page 18, lines 8-10; page 19, lines 19-20). One of ordinary skill in the art understands that this stage of the process functions to remove water-soluble

additives from the formed article. Applicants respectfully request that the Examiner further explain why the presence or absence of the milk protein salt or the sodium caseinate in the final product is germane to patentability of the claims.

Claims 23 and 24 have been rejected because there is insufficient antecedent basis for the limitation "the glove". Applicants have amended claims 23 and 24 thus rendering the rejection moot.

In accordance with the foregoing remarks, applicants respectfully request that the rejections under 35 U.S.C. §112 be withdrawn.

Rejections Under 25 U.S.C. § 102(b)

Claims 10, 16-18, 23 and 24 have been rejected by the Examiner under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,869,591 to McKay et al. ("McKay"). Applicants respectfully disagree.

The Examiner alleges that McKay teaches "a synthetic elastomeric polyisoprene article ," and that "the article is prepared with a curing agent that comprises a dithiocarbamate compound, a thiazole compound and a guanidine compound and that the elastomer of the article comprises a stabilizer."

McKay is directed to thermoset interpolymers and foams, particularly to the compositions themselves, a process of making said compositions, and to products formed therefrom. More specifically, the invention relates to interpolymers of α-olefins, vinylidene aromatic compounds, and dienes (abstract and col. 2, lines 57-61 of McKay). McKay sets forth a definition of the term "interpolymer" as follows:

> The term "interpolymer" as used herein refers to polymers prepared by the polymerization of

> at least two different monomers. The generic term interpolymer thus includes copolymers, usually employed to refer to polymers prepared from two different monomers, and polymers prepared from more than two different monomers. (col. 5, lines 57-62 of McKay)

McKay distinguishes the term "interpolymers" as defined above from the generic term "polymers", which embraces both homopolymers and interpolymers (col. 2, lines 29-34 of McKay). McKay teaches interpolymers which may incorporate one or more diene. Isoprene is taught as one possible diene (col. 11, lines 42-48 of McKay).

McKay discloses that the invention "may include various additives, such as carbon black, silica, titanium dioxide, colored pigments, clay, zinc oxide, stearic acid, accelerators, curing agents, sulfur, stabilizers, antidegradants, processing aids, adhesives, tackiofiers, plasticizers, wax, precrosslinking inhibitors, discontinuous fibers (such as wood cellulose fibers) and extender oils" (col. 12, lines 46-51 of McKay). McKay further discloses that curing agents "will typically be provided in an amount of from 0.5 to 12 weight percent, based on the total weight of the formulation" (col. 13, lines 21-23 of McKay). McKay teaches a list of suitable curing agents:

> peroxides, phenols, azides, aldehyde-amine reaction products, substituted ureas, substituted guanidines; substituted xanthates; substituted dithiocarbamates; sulfur-containing compounds, such as thiazoles, imidazoles, sulfenamides, thiuramidisulfides, paraquinone-dioxime, dibenzoparaquinonedioxime, sulfur; and combinations thereof. (col. 13, lines 24-30 of McKay)

The Examiner alleges that McKay teaches an "elastomeric polyisoprene article". Applicants respectfully disagree. McKay teaches interpolymers. The applicants' invention is not directed to interpolymers, but is specifically directed to polyisoprene, a homopolymer. McKay specifically distinguishes homopolymers from interpolymers, and therefore does not teach compositions comprising a homopolymers. As such, the teachings of McKay do not read on any pending claim, which are directed to polyisoprene latex articles.

With regard to pending claim 18, the Examiner cites that McKay teaches a curing system that comprises "a dithiocarbamate compound, a thiazole compound and a guanidine compound...in an amount from 0.5 to 12 weight percent, an amount that overlaps with the amounts claimed in claim 18." Applicants respectfully submit that the total amount of curing system taught by McKay in no way reads on claim 18, which specifies particular ranges for each component of the curing system, even though the sum total of the specific ranges happens to fall within the broad range taught by McKay.

Additionally, claim 24 has been rejected because the method limitation recited has not been given patentable weight since the method of forming the article is not germane to the issue of patentability. As currently pending, claim 24 depends ultimately from claim 10 – a process claim. As such, the method of production is germane to patentability.

The legal test for anticipation under 35 U.S.C. § 102 requires that each and every element of the claimed invention be disclosed in a prior art reference in a manner sufficient to enable one skilled in the art to reduce the invention to practice, thus placing the public in possession of the invention. W.L. Gore Associates v. Garlock, Inc.,

721 F.2d 1540, 1554 (Fed. Cir. 1983) cert. denied 469 U.S. 851 (1984); In re Donohue, 766 F.2d 531 (Fed. Cir. 1985). Anticipation under 35 U.S.C. § 102 requires identity of invention. Scripps Clinic & Research Fdn. v. Genentech Inc., 927 F.2d 1565 (Fed. Cir. 1991).

McKay teaches latex compositions comprising interpolymers, not homopolymers. Polyisoprene is a homopolymer. Accordingly, applicants respectfully request that the rejection under 35 U.S.C. § 102(b) be withdrawn.

Rejections under 35 U.S.C. § 103(a)

Claims 11-14 and 22 have been rejected by the Examiner as being unpatentable as obvious over McKay in view of U.S. Patent No. 6,187,857 to Ozawa et al. ("Ozawa"). Applicants respectfully disagree.

The Examiner alleges that McKay teaches the claimed article, but fails to particularly disclose that the article can be a glove, a condom, a probe cover, or a catheter. The Examiner alleges that Ozawa remedies this deficiency.

The teachings of McKay are described *supra*.

Ozawa is directed to a dipping latex composition and rubber articles made therefrom. Ozawa is particularly directed to "a dip-forming, vulcanizable rubber latex composition comprising a sulfur-containing vulcanizer an[d] a vulcanization accelerator, which is used for making a vulcanized unsaturated nitrile rubber article" (col. 1, lines, 11-14 of Ozawa). Ozawa is specifically directed to a composition comprising "an unsaturated nitrile-conjugated diene copolymer rubber latex" (col. 2, lines 31-32 of Ozawa), as well as a sulfur-containing vulcanizer and at least one vulcanization accelerator. Ozawa states that "vulcanization accelerators such as thiophosphate

compounds, thiazole compounds, benzothiazole-sulphenamide compounds and guanidine compounds are known, but desired vulcanization properties cannot be achieved with these" (col. 2, lines 9-13 of Ozawa). Ozawa teaches the use of "isoprene rubber latex" as an additive in a dip-forming nitrile-conjugated diene copolymer rubber latex composition (col. 8, lines 10-14 of Ozawa). Ozawa also teaches that the possible conjugated diene monomers used in the nitrile-conjugated diene copolymer include isoprene (col. 3, lines 17-22 of Ozawa).

The Examiner alleges that McKay teaches an "elastomeric polyisoprene article". Applicants respectfully disagree. McKay teaches interpolymers. The applicants' invention is not directed to interpolymers, but is specifically directed to polyisoprene, a homopolymer. McKay specifically distinguishes homopolymers from interpolymers, and therefore does not teach compositions comprising a homopolymers. Additionally, Ozawa teaches nitrile-conjugated diene copolymers, as distinguished from homopolymers. The present invention relates to polyisoprene latex, a homopolymer. As such, applicants respectfully request that the rejection be withdrawn.

Claim 15 is rejected by the Examiner as being unpatentable as obvious over McKay in view of Ozawa and in further view of U.S. Patent No. 3,732,578 to Pollack ("Pollack").

The Examiner alleges that McKay teaches an elastomeric polyisoprene articles, and further that "diphenyl guanidine is a suitable guanidine." The Examiner further alleges that Ozawa discloses that "zinc 2-mercaptobenzothiazole is a suitable accelerator for preparing polyisoprene articles." Applicants refer to the discussion *supra*

describing that McKay and Ozawa do not teach the homopolymer polyisoprene, but instead teach interpolymers or copolymers. The Examiner alleges that Pollack discloses that "zinc diethyldithiocarbamate is a suitable accelerator for preparing polyisoprene articles."

Pollack is directed to an interfacial pad for use with the socket of a prosthetic device. Pollack specifically teaches that the "pads of the present invention are prepared from polymeric latex foams" (col. 3, lines 42-43 of Pollack), and that polyisoprene is one example of a suitable polymeric latex (col. 3, line 46 of Pollack). Pollack teaches the use of elastomeric resins including polyisoprene as tackifying resins to obtain the memory characteristic or high compression set of the foam cups (col. 5, lines 1-2 and lines 8-9 of Pollack). Pollack discloses a number of suitable organic accelerators, including zinc diethyldithiocarbamate (col. 4, lines 50-54 of Pollack).

Pollack provides no teaching of making any article except an interfacial pad for use with a prosthetic device. Also, there is no teaching of the methods of the invention that result in an elastomeric polyisoprene article with the claimed tensile strength. Applicants' invention is not directed to unformulated polyisoprene as a tackifying resin nor to high compression set properties therefrom. Additionally, it would not be obvious to combine the teachings of McKay with the teachings of Ozawa and Pollack to arrive at the present invention because of the deficiencies of McKay and Ozawa with respect to the teaching of the homopolymer polyisoprene.

A finding of obviousness under 35 U.S.C. § 103 requires a determination of the scope and the content of the prior art, the differences between the invention and the prior art, the level of the ordinary skill in the art, and whether the differences are

such that the claimed subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made. Graham v. Deere, 383 U.S. 1 (1966). The relevant inquiry is whether the prior art suggests the invention, and whether one of ordinary skill in the art would have had a reasonable expectation that the claimed invention would be successful. In re O'Farrell, 853 F.2d 894, 902-4 (Fed. Cir. 1988); In re Vaeck, 947 F.2d 488, 20 U.S.P.Q. 2d 1438 (Fed. Cir. 1991). Both the suggestion of the claimed invention and the expectation of success must be in the prior art, not in the disclosure of the claimed invention. In re Dow Chemical Co., 5 U.S.P.Q. 2d 1529 (Fed. Cir. 1988).

Applicants contend that McKay in view of Ozawa and Pollack do not teach or suggest the claimed invention. Accordingly, applicants respectfully request withdrawal of the rejections under §103.

CONCLUSION

Applicants have not individually addressed the rejections of all of the dependent claims because applicants submit that the independent claims from which they respectively depend are in condition for allowance as set forth above. Applicants however reserve the right to address such rejections of the dependent claims should such be necessary.

Based on the foregoing remarks, applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same.

AUTHORIZATION

The Commissioner is hereby authorized to charge the applicant for an Extension of Time Under 37 C.F.R. § 1.136(a) for three months as well as any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 2877-4043.

Respectfully submitted,
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